

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

(1) BRANDON SUMLIN,

Plaintiff,

v.

(1) EXPRESSWAYS RENTAL
PROPERTIES, LLC, a limited liability
company,

Defendant.

Case No. CIV-17-488-D

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446, Defendant Expressways Rental Properties, LLC (“Defendant”), hereby removes this action from the District Court of Oklahoma County, Oklahoma where it was filed as Case No. CJ-2017-1786, styled *Brandon Sumlin v. Expressways Rental Properties, LLC* (“The State Court Lawsuit”), to the United States District Court for the Western District of Oklahoma. Removal is proper for the following reasons:

Expressways Rental Properties, LLC is a defendant in a civil action brought against it in the District Court of Oklahoma County, State of Oklahoma, and titled *Brandon Sumlin v. Expressways Rental Properties, LLC*, Case No. CJ-2017-1786 (the “State Court Case”).

This Court has both subject matter and diversity jurisdiction over this action.

In Plaintiff’s Petition, he has asserted claims for violation of his rights pursuant to the federal Fair Labor Standards Act (“FLSA”). This civil action is removable to the District Court of the United States pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441(a) because it arises under the Constitution, laws or treaties of the United States.

Specifically, Plaintiff alleges that Defendant violated the Fair Labor Standards Act, (“FLSA”), 29 U.S.C. § 201, *et seq.* by failing to pay wages, including overtime wages. Plaintiff further alleges these federal claims on behalf of himself and others similarly situated.

This matter is also one which may be removed to this Court by Defendant under 28 U.S.C. §1441(b) because of diversity of citizenship between Plaintiff and Defendant’s only members and based on sufficiency of the amount in controversy.

As alleged in paragraph 9 of Plaintiff’s Petition, at the time of filing this action Plaintiff was a resident of Seminole County, Oklahoma. At the time of the filing this action and at the present time, Defendant was and is an Oklahoma domestic limited liability company, however, because an LLC’s citizenship for diversity purposes is determined by the citizenship of its members, Defendant is not an Oklahoma citizen for diversity purposes. Defendant has two members, Kulbushan Gupta 1990 Family Trust and Rohan Gupta. The trustees of the Kalbushan family trust are California residents, as is Rohan Gupta. Thus, for diversity jurisdiction purposes, Defendant is a citizen of California.

Plaintiff claims to be entitled to recover an amount exceeding that specified by 28 U.S.C. § 1332 to invoke federal diversity jurisdiction and, therefore, the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. As such, Defendant seeks removal on diversity grounds in addition to federal question grounds.

The aforementioned action was commenced by service of summons upon Defendant on April 7, 2017. This Notice of Removal is, therefore, timely filed under the provisions of 28 U.S.C. § 1446.

A copy of all process, pleadings, and other documents filed in the State Court Lawsuit are attached hereto as follows:

Exhibit 1 - Plaintiff's Original Petition, filed March 28, 2017

Exhibit 2 - Entry of Appearance for Chris Hammons, filed March 28, 2017

Exhibit 3 - Entry of Appearance for D. Colby Addison, filed March 28, 2017

Exhibit 4 - Proof of Service Affidavit, filed April 7, 2017

Exhibit 5 - Docket sheet from the District Court of Oklahoma County, State of Oklahoma

Defendant will promptly provide Plaintiff written notice of the filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d). Defendant will also file a copy of the Notice of Removal with the District Court Clerk of Oklahoma County, State of Oklahoma.

Respectfully submitted,

s/Mary P. Snyder

Adam W. Childers, OBA #18673

Mary P. Snyder, OBA #31427

CROWE & DUNLEVY

A Professional Corporation

Braniff Building

324 N. Robinson Ave., Suite 100

Oklahoma City, OK 73102-8273

(405) 235-7700

(405) 239-6651 (Facsimile)

adam.childers@crowedunlevy.com

mary.snyder@crowedunlevy.com

ATTORNEYS FOR DEFENDANT

EXPRESSWAYS RENTAL PROPERTIES,
LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of April, 2017, the above and foregoing was filed in the Western District Court of Oklahoma, that a true and correct copy of said Notice of Removal was served upon the above-named plaintiff, by mailing said copies to plaintiff's attorney of record, and further that a copy of said Notice of Removal was filed with the Court Clerk of Oklahoma County, Oklahoma.

D. Colby Addison
Chris Hammons
LAIRD HAMMONS LAIRD, PLLC
1332 S.W. 89th Street
Oklahoma City, OK 73159
colby@lhllaw.com
Attorneys for Plaintiff

s/Mary P. Snyder